Claims 1-47 are pending. Claims 1, 4, 8, 12-14, 17, 20, 24, 30, 32, 36, and 40-42 have been amended. No new matter has been introduced. Reexamination and reconsideration of the application are respectfully requested.

In the October 14, 2004 Office Action, the Examiner rejected claims 1-3, 12, 14, 17-19, 29-31, 40, and 42 under 35 U.S.C. §102(e) as being anticipated by Aoki et al., U.S. Patent No. 6,757,255 B1 (hereinafter the Aoki reference). The Examiner rejected claims 4-6, 13, 15, 16, 20-22, 32-34, 41, 43, and 44 under 35 U.S.C. §103(a) as obvious over the Aoki reference in view of "Communication System An Introduction to Signals and Noise in Electrical Communication" by Carlson et al. (hereinafter the Carlson reference). The Examiner rejected claims 7, 11, 23, 27, 28, 35, 39, and 45-47 under 35 U.S.C. §103(a) as obvious over the Aoki reference in view of "Communication Networks Fundamental Concepts and Key Architectures" by Garcia et al. (hereinafter the Garcia reference). The Examiner rejected claims 8-10, 24-26, and 36-38 under 35 U.S.C. §103(a) as obvious over the Aoki reference in view of the Garcia reference, in further view of the Carlson reference. These rejections are respectfully traversed.

Independent claim 1, as amended, recites:

A method for determining segment bandwidth capacity of a test segment in a network, the method comprising:

identifying a plurality of links that commonly share the test segment to be tested, the test segment being directly connected to a first network device and a second network device;

sending a plurality of packet profiles from a plurality of source nodes to a plurality

of destination nodes via the plurality of links, each link of the plurality of links connecting a source node with a destination node, each link including the test segment;

manipulating start times for sending the plurality packet profiles, or a portion thereof, from the plurality of source nodes, or a portion thereof, **so that the plurality of packet profiles flow through the test segment essentially simultaneously**; and

receiving the plurality of packet profiles at the plurality of destination nodes, wherein each of the packet profiles comprises a plurality of packets, and byte count measurements and time stamps are made at the plurality of destination nodes.

The Examiner rejected claims 1-3, 12, 14, 17-19, 29-31, 40, and 42 under 35 U.S.C. §102(e) as being anticipated by the Aoki reference. In so doing, the Examiner stated "each link includ[es] a source node with a destination node, each link including the test segment (Examiner interprets the test segments as the log information of the TCP packets) refer to Fig 1, Col 6, Line 15-25, 62-67, and Col 7, Lines 1-10)."

The Aoki reference states " the log information of the TCP packet taken in by the packet monitoring unit 21 of the TCP communications performance measuring device 2, as shown in FIG. 3, contains a transmitting/receiving time, addresses of the transmitting- and receiving-side communications devices, a packet category and a packet size." (Column 6, line 62-column 7, line1). Applicant respectfully submits that a test segment of the claimed invention cannot be interpreted as "the log information of the TCP packets". A test segment is a portion of a link, the test segment being directly connected to a first network device and a second network device.

The Aoki reference does not disclose, teach, or suggest the method specified in independent claim 1, as amended. Unlike the method specified in independent claim 1,

as amended, the Aoki reference does not show "**identifying a plurality of links that commonly share the test segment to be tested**, the test segment connecting a first network device and a second network device; **sending a plurality of packet profiles from a plurality of source nodes to a plurality of destination nodes** via the plurality of links, each link of the plurality of links connecting a source node with a destination node, each link including the test segment; manipulating start times for sending the plurality packet profiles, or a portion thereof, from the plurality of source nodes, or a portion thereof, so that **the plurality of packet profiles flow through the test segment essentially simultaneously**".

Applicant respectfully submits that the Aoki reference does not teach the method as specified in independent claim 1, as amended. The Aoki reference states "a session management unit 23 detects, based on the log information contained in the TCP packet, addresses of a pair of **a transmitting-side communications device** and **a receiving-side communications device** which are **performing the communications**, and records the addresses per pair in a session management table 24 which will be mentioned later on. To be specific, **the session management unit 23 manages per session** (the addresses of the pair of communications devices) **a flow of the TCP packets**. The session management table 24 is defined as a database for recording a value of performance index (which will hereinafter be explained) of the TCP communications per session." (Column 6, lines 47-58.)

The Aoki reference states "a performance calculating unit 25 <u>calculates the performance of the TCP communications</u> on the communications path on the network, from **the performance index value** recorded **per session** in the session management

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table 24. The log information of the TCP packet taken in by the packet monitoring unit 21 of the TCP communications performance measuring device 2, as shown in FIG. 3, contains <u>a transmitting/receiving time</u>, <u>addresses of the transmitting- and receiving-side communications devices</u>, a packet category and a packet size. Further, the performance index detecting unit 22 of the measuring device 2 detects the performance index value from the log information with respect to a session designated in the session management table 24 by the session management unit 23, and stores the value in the session management table 24. **The performance index includes a round trip time, a maximum segment size, an average congestion window size, a packet discard rate and a packet discard event rate**." (Column 6, line 59-column 7, line 9).

The Aoki reference teaches that in a session, packets are sent from a transmitting-side communications device to a receiving-side communications device and vice versus to measure a round trip time for determining a performance index. The Aoki reference does not show "**identifying a plurality of links that commonly share the test segment to be tested**, the test segment connecting a first network device and a second network device; **sending a plurality of packet profiles from a plurality of source nodes to a plurality of destination nodes** via the plurality of links, each link of the plurality of links connecting a source node with a destination node, each link including the test segment; manipulating start times for sending the plurality packet profiles, or a portion thereof, from the plurality of source nodes, or a portion thereof, so that **the plurality of packet profiles flow through the test segment essentially simultaneously**".

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Accordingly, Applicant respectfully submits that independent claim 1, as amended distinguishes over the above-cited reference. Claims 2-11, and 45 depend directly or indirectly from independent claim 1, as amended. Therefore, Applicant respectfully submits that claims 2-11, and 45 distinguish over the above-cited reference for the same reasons as set forth above with respect to independent claim 1, as amended.

Independent claims 12, 14, 17, 30, 40, and 42 as amended, recite limitations similar to independent claim 1, as amended. Specifically, independent claims 12, 14, 30, 40, and 42, as amended, recites "identifying a plurality of links that commonly share the test segment to be tested, the test segment connecting a first network device and a second network device". Independent claim 17, as amended, recites " a plurality of links interconnecting nodes residing on the edge of the network, each of the links being identified as commonly sharing the test segment".

Accordingly, Applicant respectfully submits that independent claims 12, 14, 17, 30, 40, and 42 distinguish over the above-cited reference for the same reasons as set forth above with respect to independent claim 1, as amended.

Claim 13 depends directly from independent claim 12, claims 15 and 16 depend directly from independent claim 14, claims 18-29, and 46 depend directly or indirectly from independent claim 17, claims 31-39, and 47 depend directly or indirectly from independent claim 30, claim 41 depends directly from independent claim 40, claims 43 and 44 depend directly from independent claim 42. Therefore, Applicant respectfully submits that claims 13, 15, 16, 18-29, 31-39, 41, 43, 44, 46, and 47 distinguish over the above-cited reference for the same reasons as set forth above with respect to

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independent claim 1, as amended.

Applicant believes that the foregoing amendment and remarks place the application in condition for allowance, and a favorable action is respectfully requested.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at the Los Angeles telephone number (213) 488-7100 to discuss the steps necessary for placing the application in condition for allowance should the examiner believe that such a telephone conference would advance prosecution of the application.

Respectfully submitted,

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